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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Appeal No. 14866 of the Residential Action Coalition, pursuant to 11 DCMR 3200.2 and 3105.1, from the decision of the Acting Director of the Department of Consumer and Regulatory Affairs made on June 26, 1987 to issue Certificate of Occupancy No. B-150273 for a 40-room inn in an R-5-C District at premises 1627 - 16th Street, N.W., (Square 193, lot 148).

HEARING DATE:           October 19, 1988  
DECISION DATE:         December 7, 1988

FINDINGS OF FACT:

1. This appeal is before the Board on the motion of the Intervenor, Windem Associates, owner of the premises 1627 16th Street, N.W., to dismiss the appeal. Intervenor contends that the Board lacks jurisdiction to consider the appeal, because the appeal was not timely filed. Intervenor also questions the standing of the appellant organization, and the authority for the filing of the appeal, and asserts the equitable defenses of laches and estoppel.

2. On September 24, 1985, October 3, 1985, November 1, 1985, November 7, 1985, December 10, 1987 and March 30, 1988, the District of Columbia issued building permits for various construction at 1627 16th Street, N.W. Each permit on its face designated the proposed occupancy to be as an inn. The scope of work was as follows:

- a. Building Permit B-310125, issued on September 14, 1985, was for "DEMOLITION INTERIOR WORK ONLY" in a value of \$100,000.00;
- b. Building Permit B-310261, issued on October 3, 1985 was for a "TEMPORARY CHAIN LINK CONSTRUCTION FENCE" and did not show any work value;
- c. Building Permit B-310827, issued on November 1, 1985, was for "new baths, additional lights and switching, new HVAC" in a value of \$100,000.00;
- d. Building permit B-310908, issued on November 7, 1985, was for a new door, stair, windows, and fire escape, in the value of \$3,000.00;

- e. Building permit B-326191, issued on December 10, 1987, was for installation of a 6-foot by 4-inch brass sign, of no indicated value; and
  - f. Building Permit B-328475, issued on March 30, 1988, was for closing and removing a door, and installation of an areaway wall, concrete pad, and gates, with no value indicated.
3. Construction pursuant to the permits that were issued between September and December, 1985, began in 1985, and was completed in 1987.
  4. On June 26, 1987, the District of Columbia issued to Mr. Jerry S. Gorer, Certificate of Occupancy No. B-15027, authorizing an inn at the premises 1627 16th Street, N.W., Lot 148, Square 193.
  5. The operation of the inn began in July, 1987.
  6. No later than December 1, 1986, members of the appellant organization had actual knowledge that the District had issued a construction permit to allow an inn at 1627 16th Street, and that work was proceeding at that time.
  7. No later than August 19, 1987, members of the appellant organization had actual knowledge that the District of Columbia had issued a certificate of Occupancy for an inn use at 1627 16th Street, N.W.
  8. The appellant organization filed the instant appeal on June 2, 1988.
  9. The appellant organization and its members are actively concerned with zoning issues in the area of 1627 16th Street, N.W.
  10. The appellant organization authorized the filing of the appeal.

CONCLUSIONS OF LAW:

1. The appellant has standing to file the appeal, and it duly authorized the filing of the appeal.
2. The appellant filed the appeal at least 18 months after members of the appellant organization had actual knowledge that the District of Columbia had issued a construction permit that reflected an inn use that the members believed to be prohibited by the Zoning Regulations.
3. The appellant filed the appeal at least 9 months after members of the appellant organization had actual knowledge that the District of Columbia had issued a

certificate of occupancy for an inn use that the members believed to be prohibited by the Zoning Regulations.

4. The appeal was not filed in a reasonable time.

5. The Board does not have jurisdiction to consider the appeal.

6. Because the Board does not have jurisdiction to consider the appeal, the Board does not reach the equitable defenses of laches and estoppel.

Based upon the foregoing, the Board hereby ORDFPS that Appeal No. 14866 be DISMISSED.

VOTER: 3-0 (Charles R. Norris and William F. McIntosh to DISMISS the appeal; Elliott Carroll to DISMISS by proxy; and Paula L. Jewell and Carrie L. Thornhill not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
EDWARD I. CURRY  
Executive Director

FINAL DATE OF ORDER: JUN 8 1990

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

appeal14866/RJW43

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



APPLICATION NO. 14866

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated JUN 8 1990, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning these matters, and who is listed below:

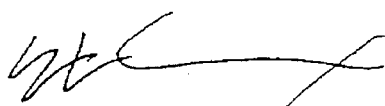
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EDWARD L. CURRY  
Executive Director

DATE: JUN 8 1990